Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Ducheny	Analyst:	Christy Keith	Bill Number:	AB 480
Related Bills:	See Legislative History	Telephone:	845-6080	Amended Date:	6/22/2000
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Household And Dependent Care Services Necessary For Gainful Employment Refundable Credit

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would allow taxpayers with California adjusted gross income of $100,000 or less a refundable credit equal to a percentage of the federal credit allowed for certain household and dependent care services necessary for gainful employment.

SUMMARY OF AMENDMENT

The June 22, 2000, amendments deleted the bill's prior language regarding workforce investment and inserted the language discussed in this analysis.

This is the department's first analysis of this bill.

EFFECTIVE DATE

As a tax levy, this bill would be effective immediately and operative for taxable years beginning on or after January 1, 2000.

LEGISLATIVE HISTORY

AB 149 (Leach, 1999) and AB 1728 (Floyd, 1998) would have allowed taxpayers with an AGI of $100,000 or less an employment-related child and dependent care credit equal to a specified percentage of the federal credit. AB 149 failed to pass out of the first house by the deadline, and AB 1728 failed passage in the Assembly Appropriations Committee.

SPECIFIC FINDINGS

Existing federal law (IRC Section 21) allows a credit against tax of 20%-30% (depending on the taxpayer’s adjusted gross income) of employment-related costs of care for a qualifying individual. A qualifying individual is defined as a dependent of the taxpayer who is under the age of 13 or a dependent or spouse who is physically or mentally unable to care for him- or herself. Employment-related expenses are defined, generally, as those expenses incurred to enable gainful employment.

Existing federal law limits the amount of employment-related expenses incurred during a taxable year to $2,400, if there is one qualifying individual, or $4,800, if there are two or more qualifying individuals with respect to the taxpayer for that taxable year.

Board Position:			Department Director	Date
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California law had a similar credit based upon expenses for household and dependent care services necessary for gainful employment. That credit was a percentage of the federal credit; the percentage was based upon the taxpayer's AGI and ranged between 15% and 30%. That credit provision was repealed by its own terms December 1, 1993.

Existing state law allows employers under both the Bank and Corporation Tax Law and the PITL to claim a tax credit for establishing a child care program, constructing a child care facility, or contributing to child care information and referral services. Building owners may claim this credit based on a program or facility established for their tenants' children.

Under the PITL, **this bill** would allow a refundable credit based on a percentage of the taxpayer's federal household and dependent care credit.

The percentages would be:

If state adjusted gross income is:	Credit percentage is:
$40,000 or less	63%
Over $40,000 but not over $70,000	53%
Over $70,000 but not over $100,000	42%
Over $100,000	0%

The following chart indicates the maximum credit amounts that a taxpayer may receive. Since the federal law allows 11 different credit percentages, primarily between $11,000 and $28,000 in adjusted gross income, this chart reflects only some of the adjusted gross income ranges for simplicity.

State AGI	Federal Credit Percentage	State Credit Percentage	Credit Amount - Maximum $2400 In Expenses	Credit Amount - Maximum $4800 In Expenses
Up to $10,000	3%	63%	$454	$907
$28,000 to $40,000	2%	63%	$302	$605
$40,000 to $70,000	2%	53%	$254	$509
$70,000 to $100,000	2%	42%	$202	$403

This bill would limit the credit to those taxpayers who maintain a household within the state.

Policy Considerations

Historically, refundable credits (such as the state renter's credit, the federal earned income tax credit and the federal farm gas credit) have had significant problems with fraud. These problems are aggravated because once a refund that is made is later determined to be fraudulent, the refund commonly cannot be recovered.

This credit does not contain a sunset date. Credits generally contain a sunset date to allow periodic review by the Legislature.

Implementation Considerations

The department does not currently administer a refundable tax credit under the PITL. Establishing a refundable tax credit program would have a significant impact on the department's programs and operations and require extensive changes to forms and systems. Experience administering this program may show that the cost to detect fraudulent claims is significantly greater than the implementation costs stated in this analysis.

Technical Considerations

Attached amendment 1 would clarify that the refundable credit would be treated like a payment and allowed to be adjusted as a math error, with protest and appeal rights. This language essentially duplicates how the refundable renter's credit was handled.

FISCAL IMPACT

Departmental Costs

Departmental costs to implement this new refundable credit are estimated to be $1 million for initial implementation, with continuing annual costs of $605,000. These costs are based on a projected universe of 50,000 new filers and 700,000 current filers claiming the credit.

Tax Revenue Estimate

Revenue losses under the PITL are estimated to be:

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 1999 $ Millions		
2000-01	2001-02	2002-03
-$195	-$189	-$193

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Estimate Discussion

Revenue losses under the PITL would depend on the number of taxpayers with California adjusted gross incomes below $100,000 who would be eligible for federal household and dependent care credit.

The above estimates were based on simulations using the department's personal income tax model. Special programming was done to reflect the federal law and phase-out effects.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 480
As Amended June 22, 2000

AMENDMENT 1

On page 4, after "SEC. 2", insert:

Section 19052 is added to the Revenue and Taxation Code to read:

19052. Notwithstanding any provision in this part, denial of credits or refunds claimed on or after January 1, 2001, in accordance with Section 17052.6 may be made pursuant to Section 19051 except that in such cases claimants shall have the right of protest and appeal provided by this part.

SEC. 3